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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,237	03/20/2000	Seth D. Rose	344-P-16-USA	9691

7590 01/13/2003

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EXAMINER

FUBARA, BLESSING M

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 01/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/509,237

Applicant(s)

ROSE ET AL.

Examiner

Blessing M. Fubara

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7, 8, 10 and 11 is/are rejected.
- 7) ☒ Claim(s) 9 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- ☐ Interview Summary (PTO-413) Paper No(s). _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Examiner acknowledges receipt of request for extension of time and amendment B filed 10/23/02. Claims 1-6 are cancelled and new claims 7-12 are pending.

Specification

Examiner acknowledges receipt of abstract on separate sheet. The objection to the specification is thus withdrawn.

Claim Rejections - 35 USC § 112

1. Cancellation of claims 1-6 overcomes the previous rejection under 35 U.S.C. 112, second paragraph. However, new claims 7-9 remain rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 is confusing because it is not clear how “modifying the solubility of the polymer in the liquid composition ... interaction product” relates to the method forming a film in situ by applying a liquid polymer composition to a body tissue and allowing the solvent in the liquid polymer to evaporate to leave a film.

Clarification is required.

For examination purposes, claim 7 is interpreted according to the method steps.

Claim Rejections - 35 USC § 102

2. Claims 7, 8, 10 and 11 remain rejected under 35 U.S.C. 102(b) as being anticipated by Blank (US 4,533,540).

Applicants argue that Blank does not teach a film forming composition that includes an interaction product.

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3. Applicants' arguments filed 10/23/02 have been fully considered but they are not persuasive.

The prior art teaches comprises a copolymer of polyvinylpyrrolidone and nitroglycerine and the copolymer broadly reads on interaction product. Regarding the argument that the interaction product is created by attaching a hydrophobic group to a polymer is not within the interpretation of the claim since it is not clear what relevance method of preparing the polymer has on a method where a polymer is applied to a tissue.

4. Claims 7, 8, 10 and 11 remain rejected under 35 U.S.C. 102(b) as being anticipated by Mueller et al. (US 4,826,677).

Applicants argue that Mueller does not teach an interaction product.

5. Applicant's arguments filed 10/23/02 have been fully considered but they are not persuasive.

The prior art teaches compositions comprising modified polymer and modified polymer reads on the broad interaction product. Regarding the argument that the interaction product is created by attaching a hydrophobic group to a polymer is not within the interpretation of the claim since it is not clear what relevance method of preparing the polymer has on a method where a polymer is applied to a tissue.

6. Claims 9 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims because the prior art does not teach the polymers recited in claims 9 and 12.

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7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blessing M. Fubara whose telephone number is 703-308-8374. The examiner can normally be reached on 7 a.m. to 3:30 p.m. (Monday to Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 703-308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3592 for regular communications and 703-305-3592 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

Blessing Fubara
January 10, 2003

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600